



City of Carmel

Board of Zoning Appeals May 28, 2002

The regular scheduled meeting was held at 7:00 PM in the Council Chambers of Carmel City Hall on May 28, 2002. Those members in attendance: Michael Mohr, Pat Rice, Leo Dierckman, Earlene Plavchak, Charles Weinkauff, thereby establishing a quorum.

Department of Community Services Staff in attendance: Director Michael Hollibaugh; Laurence Lillig, Kelli Lawrence, Jon Dobosiewicz; Jeff Kendall, Building Commissioner. John Molitor, Legal Counsel was also present.

The minutes of the April 2002 meeting were approved as submitted.

John Molitor reported he had no update on the pending litigation. The proposed changes for the Rules of Procedure had been distributed and are the final item on the agenda.

Laurence Lillig reported Item 2j, Smokey Ridge, V-17-02 is withdrawn by the Petitioner; Items 3-6j, Lakes at Hazel Dell, V-18-02 through V-21-02 have been tabled to the July 22, 2002, meeting; Item 16j, Appel Heating & Air Conditioning, V-37-02 had insufficient public notice, however, the Department is recommending suspension of the rules; Items 33-45j, Carmax, V-54-02 through V-66-02 have been voluntarily tabled by the Petitioner pending ADLS approval; Items 46-66j, St. Vincent's Carmel Hospital, V-67-02 through V-87-02, is tabled pending ADLS review. The Department recommends the agenda be re-ordered so that Old Business is heard before the Public Hearings tonight.

Mrs. Rice moved to re-order the agenda. The motion was seconded by Mr. Weinkauff and **APPROVED 5-0.**

Mr. Weinkauff moved to re-open the Public Hearing on agenda Items 1k, **Martin Marietta Materials (UV-23-02)** and 2-5k, **Martin Marietta Materials, (SU-24-02; SU-25-02; V-26-02; V-27-02).** The motion was seconded by Mr. Dierckman and **APPROVED 5-0.**

J. Public Hearing:

1k. Martin Marietta Materials (UV-23-02)

Petitioner seeks approval of a Use Variance of *Section 5.1: Permitted Uses* in order to establish a Sand and Gravel Processing Operation.

The site is located on the northeast corner of East 106th Street and Hazel Dell Parkway. The site is zoned S-1/Residence - Low Density.

Filed by Thomas H. Engle of Barnes & Thornburg for Martin Marietta Materials, Inc.

2-5k. **Martin Marietta Materials (SU-24-02; SU-25-02; V-26-02; V-27-02)**

Petitioner seeks Special Use approval of a Sand and Gravel Extraction Operation and an Artificial Lake.

Petitioner seeks the following Developmental Standards Variances:

V-26-02 §5.2.2: *Other Requirements* 150-foot setback

V-27-02 §5.2.2: *Other Requirements* 100-foot setback

The site is located on the northwest corner of East 106th Street and Hazel Dell Parkway.

The site is zoned S-1/Residence - Low Density.

Filed by Thomas H. Engle of Barnes & Thornburg for Martin Marietta Materials, Inc.

All Martin Marietta dockets were heard together.

Present for Petitioner: David Warshauer, Barnes & Thornburg, 11 S. Meridian, Indianapolis; Bob Furlong, John Shuler, Dan Hoskins and Max Williams, Martin Marietta; and Tom Engle of Barnes & Thornburg. These petitions are for extraction of sand and gravel only, not surface or underground mining. According to residents on the east side of Kingswood, the current operation has not been detrimental to their quality of life or property values. The Kingswood Homeowners Association now offers support to this operation after years of negotiations and settlement of a lawsuit. The Staff and consultant, Spectra Engineering, recommend approval of these petitions.

The lawsuit was finalized and signed by all parties. Martin Marietta conditions applicable to petitions tonight include:

- Not conduct mining other than sand and gravel extraction using a dredge without further zoning approval which would require a public hearing

Written commitments for sand and gravel extraction on the Mueller property north of 106th Street:

- If permitted to begin sand and gravel extraction by June 1, 2002, move the processing plant to new location just east of Hazel Dell and north of 106th Street
- Start plant relocation by January 1, 2004, with completion no later than March 31, 2004
- All processing at the current location will terminate upon completion of relocation
- Noise abatement features will be used at the new plant
- Existing tree buffer along Hazel Dell will be maintained
- Recycle waste water to lakes on Mueller and Martin properties
- All over-burden removal completed during weekday daylight hours, November through March
- Minimize noise, dust, light or smoke impact
- No surface operations on the wooded portion of Mueller property north of 106th Street nor directly south of Carmelot at the northeast corner of Gray Road and 106th Street
- All Martin Marietta trucks will have covered beds
- Will reclaim the Mueller property north of 106th Street and its own property between 106th and 116th Streets as a lake with slopes not steeper than 3 to 1, more likely 4 to 1, water line not less than 150 feet from the nearest property line in Kingswood and domestic grass coverage not less than 80% per square yard. A reclamation plan has been submitted to the Department.

- Convey to Hamilton County or City of Carmel a 45-foot half right-of-way along the northern edge of 106th Street from existing center line.
- Annual Indiana Mineral Aggregates Association reclamation guidelines report will be filed with the Department.
- No water shall be pumped from the Mueller property other than what is necessary for processing plant.
- Upon completion of extraction, no actions will be taken to drain the lake created
- Six-foot earthen berm will be created from overburden.
- Martin Marietta will handle environmental matters.
- Sand and gravel will be extracted only with a floating dredge and processed only from Mueller property.

Concerns arose at Kingswood neighborhood meetings. Hours of operation will be one-half hour after sunrise to one-half hour before sunset. A reclamation bond in the amount of \$250,000 will be posted with Kingswood. A substantial tree row will remain in a 50-foot bufferyard with an additional 900 new trees as part of the landscaping plan between the Mueller property and Kingswood. Martin Marietta has not experienced any safety issues at any of the locations in the Indianapolis area. During the time of extraction, the Mueller property will be fenced. The lake formed will have safety ledges. No additional traffic will be added to the area. Many feel long-term property values will be higher from a lake, rather than another subdivision or other type of development. Water quality has not been affected during the past work

The Petitioner is asking that the Board judge this petition on the applicable ordinance and the facts presented. The principle request is for Special Use approval for the sand and gravel extraction. Mineral extraction is permitted in the S-1 district as a Special Use with the approval of the BZA. This is not a change in the zoning.

The Rules of Procedure normally allow 15 minutes for the petitioner to make their presentation, 5 minutes for members of the public who are in support, 15 minutes for members of the public in opposition, and 5 minutes for petitioner rebuttal. A time frame of 30 minutes for the prepared remonstrators, 15 minutes for the public in favor and 15 minutes for the public opposed, for a total of one hour, was established.

Remonstrance:

Organized:

Tom Yedlick, 5053 St. Charles Place, President, Kingswood Homeowners Association. The lawsuit was not in opposition to mining, it was only to establish Carmel jurisdiction and subject to the permit process. Secondly, the lawsuit would enfranchise neighbors to speak in a public hearing such as this one. The Board believes the homeowners may not have had the opportunity to assess the impact of these applications. Martin Marietta has worked with the Kingswood Board and has been receptive to their suggestions. They used the following references and regulations to access the applications and make their recommendation: Guidelines of the Environmental Stewardship Council, The Aggregate Handbook, Carmel Zoning Ordinances, and review by Envira Restore consultants in mining reclamation. The Kingswood Board relied on the following commitments and studies performed in connection with these applications: elimination

of adverse impact of existing processing plant by relocation of the plant; creation of the largest lake in Carmel as a permanent open space; mining sequence plan designed to minimize the amount of time sand and gravel activities will be conducted directly behind Kingswood, reducing the mining activity by half [seven (7) years]; a noise study which projects the noise levels from the dredge operation will not be statistically greater noise levels than currently experienced in the Kingswood neighborhood; environmental commitments for water, air and noise pollution control that are contained in the mining reclamation plan; a property value study based on assessed tax values which projects higher property values should be expected from the lake to be created; favorable experience with existing sand and gravel extraction; a preference for maintaining open space, rather than alternative higher density uses that place added burden on traffic and school services. However, there is not consensus among the homeowners. The Kingswood Board believes this is due to lack of timely information from Martin Marietta; details were available after opposition developed. There was confusion about the project, blasting versus sand and gravel dredging. Truck traffic should not change because only one plant will be in operation. Noise will be reduced because of the location of the plant. Water lots sell at a premium price and property values should increase. Sand and gravel operations have been conducted for over 10 years on Kingswood's east boundary. Rezoning from S-1 to other uses has begun along Gray Road. There is a reliance on a mining ordinance in the future in hope that the ordinance will contain more restrictive requirements than those in these applications. However, these applications need to be considered under the existing special use regulations. The Kingswood Board supports these petitions for the following reasons: relocation of processing plant, creation of a lake as permanent open space, elimination of uncertainty of this Mueller property, certainty of sand and gravel operation is preferable to uncertainty of mining operations or of other less desirable developments, and based on the undesirable 96th Street plant it is unlikely that the City would approve this property for future S-1 use.

Individuals:

Kent Broach 5023 St. Charles Place, adjacent to Mueller property. The petitions provide more benefits than detriments. Pleased that the City has hired an expert and that expert has recommended approval. Primary concern has been home values. History shows active sand and gravel dredge for 15 years and home values have gone up. Any negative effect is the current uncertainty of the eventual use of the Mueller property. Only nuisance has been the noise from the processing plant and if the petitions are approved this plant will be moved farther away from Kingswood. Trust City and appropriate agencies to protect our environmental interests. Obviously prefer open space to development. The majority of the adjacent property owners are in favor of the petitions, the Board of Directors of the neighborhood is in favor, the City is in favor, and the City's expert consultant is in favor.

Mike Tin, 5083 St. Charles Place, south boundary at the stub street for 13 years. Challenged the relevance of information and source of information brought up from the Kingswood neighborhood survey. To be a viable survey, it should have been designed and executed by a professional market research organization. The decision weighs very heavy on our mind. Our priorities have always been the safety of our family, the security of our home, and the quality of life in the neighborhood. This would not be maintained if the area were opened to housing development. Putting the street through would greatly increase traffic and destroy safety, security and serenity. Prefer mining to extra traffic and density. Now there is a specific plan.

Sharon Donnelly, 11079 Huntington Court, adjacent to the Mueller property. Winter 2000 Martin Marietta began removing the overburden and operating a submersible dredge without a berm and the noise and dirt level was negligible. Their presence was barely noticeable. The dredging operation will preserve the open space in an area where open space is becoming increasingly endangered.

Giovanni DeLuca, 5063 St. Charles Place, bordering the Mueller property. Sand and gravel development preferable to other development. Area provides privacy and open space. The 150-foot variance, berm, fence, and gradual sloping to water address the safety issues. This is safer than development and traffic through Kingswood. This proposal is the result of negotiation between the Kingswood Board, Martin Marietta and the City.

Tim Warner, 11159 Woodbury Drive, 13 years adjacent to current dredging operation. Processing plant makes more noise than dredge operation. A lot of the dirt and dust comes from processing plant. Felt survey was asked unfairly and people were operating out of the fear of the unknown.

Julie Kozak, two-year adjacent resident at 5073 St. Charles and Westchester Street. Parents are responsible for children's safety. Her family is pleased and impressed with the safety measures. The berms are beautiful and peaceful and not an eyesore.

Russel Sveen, 11109 Woodbury Drive, adjacent to current Martin Marietta operations. It is important to move the processing plant. It is the source of noise nuisance and the move will help. It is important that the future development will be open space and a lake rather than residential development. There have been no problems with safety and the area is quite secure. There is also additional safety because of controlled access to backyards. Noise is not noticeable by the dredging process. It is a low-pitched drone.

Curt Olman, 11078 Huntington Court, 12-13 years next to dredging operation. Dust from construction of new houses is considerably more. Property value is affected by the not knowing what is going on behind the houses along the Mueller property.

Adam DeHart, Project Manager Keeler Webb Associates, 486 Gradle Drive, submitted a letter for the record, representing Mr. Thomas Crowley who bought property immediately north of this project and liked what he saw. Moving the plant will provide better security and improve the welfare of the community. The use or value of surrounding property will not be affected by moving the plant, because it is surrounded by mining operations and lies partially within the floodway of the White River. Martin Marietta/American Aggregates has been a major supporter of the community and parks, and preserved woodlands and wetlands. Consideration of setbacks and buffering has always been a priority to their designs.

Don Craft 4988 St Charles Place, stated the Kingswood lawsuit was about not receiving enough information.

Copy of Kingswood lawsuit agreement given to the Board.

Opposition:

Organized:

Jeff Joliet, 11158 Bradbury Place, Powerpoint demonstration with organization of remonstrance regarding physical suitability for the premises, economic factors and anticipated effect on surrounding community, social neighborhood factors, and whether this is compatible with the proposed Special Use and how that will affect neighborhood integrity.

Keith Johns, 5019 Huntington Dr, covered water and wellhead protection issues. No one has addressed this issue.

David Ezell, 5068 Huntington Dr, apologized for his actions at the last meeting. He is concerned about the ground water and the welfare of the drinking water. He stated he was refused a copy of the City's wellhead proposal.

Darrell Leap, 5932 Lookout Drive, West Lafayette, IN, Professor of Hydrogeology at Purdue and owner of Terra Aqua Geo Sciences, Inc., discussed the wellhead protection zone.

Nick Tillema, 11484 Lake Stonebridge, Fishers, appraiser, attorney & consultant, one of the founding partners of Forrest Hall Group specializing in diminutive valuation based on contamination of property.

Holly Detke, 5017 Kingswood Dr, discussed the survey of Kingswood conducted by a group of homeowners. Two% (4 homes) abstained, 3% (6 homes) support the Kingswood Board, 8% (15½ homes) support the mining variance, 17% (33½ homes) delay consideration until Carmel mining ordinance is adopted, 71% (141 homes) oppose the mining variance.

Jeff Joliet: Homeowners in Kingswood who presently border the processing plant are the ones in support of the variance. An S-1 residential development was assumed to connect to Kingswood by way of the stub street. Kingswood Board did not take into consideration the opinions of the homeowners when settling the litigation with Martin Marietta. Litigation agreement was signed May 17, before the May 19 and 20 neighborhood meetings with Martin Marietta.

Susan Becker, 5029 Kingswood, discussed the safety of reclamation.

Public:

Gloria Green, 6115 Woodmill Drive, Vice President of Eller Commons Homeowners Association, located on east side Hazel Dell Parkway. No consideration was given for impact from noise on their neighborhood.

Lyndel Trager, 5059 Huntington, realtor selling in Kingswood. Neighborhood has not appreciated through the years at the same rate as comparable neighborhoods. Some houses have sold for less than building price. Buyers fear mining.

Marcus Freihofer, 11136 Bradbury Place, feels the Kingswood Board not representing the entire neighborhood's best interest in this issue. There is conflict of interest on the Board. Three of the six Kingswood Board members are adjacent to existing mining or proposed mining. They should recuse themselves since they will have the right to purchase lake land.

Kimberly Lee, 5029 Huntington Drive, is concerned about real estate value and thinks open space is questionable. An industrial development is not open space. She trusted S-1 zoning for future development.

Greg Hammes, 3714 Gould Drive, representing Williamson Run Subdivision Home Owners' Association Board. They are concerned with continued heavy truck traffic. Martin Marietta has not been a good neighbor to them. This mining operation was not going on when Williamson Run Subdivision was built and it is becoming surrounded by the mining operation.

Larry J. King, 11268 Williams Court, believes the well contamination is a relevant point. U.S. EPA lowered maximum contaminant level for arsenic. A study needs to be done by the administration in the context of a mining overlay ordinance.

Bill Curry, 11121 Bradford Place, questioned the 1997 contract the City entered into with American Aggregates. The City is very close and cozy with American Aggregates and that bears some investigation. Mr. Curry to provide copy of contract he referenced. Slides presented from contract.

10 minute recess taken.

Mr. Mohr announced the Board would continue hearing Martin Marietta dockets (1k & 2-5k) and Hamilton County Senior Services dockets (31-32j). All others will be heard on Thursday, June 6, 2002, at 7:00 PM.

Rebuttal:

Mr. Warshauer stated tonight is limited to new information. Please listen to staff, experts and Carmel Utilities. The issues have been looked at and examined. Martin Marietta study of the aquifer shows no aquifer de-water nor contamination. Dredging takes place at Geist Reservoir and Geist provides water for the City of Indianapolis. Martin Marietta uses measures to control spills. Property values are also determined by location, lot size, amenities and a variety of other things. The settlement agreement was dated May 17 and the Kingswood Board refused to give any expression of support. The Kingswood Board members with adjacent property cannot get something good, if it is bad for everyone else. A project can't be both good and bad. The information from the 1997 agreement was taken out of context. The 1997 agreement with American Aggregates was a sale agreement granting right-of-way to the City of Carmel for Hazel Dell Parkway, and was not part of the Mueller property.

Public hearing closed.

Michael Hollibaugh, Director of Community Services, Department Report, asked for copies of Dr. Leap's exhibits, Mr. Tillema's appraisal data, opinion poll data, and F C Tucker appraisal data. Department is recommending favorable consideration. The benefits to the City far outweigh any negative aspects in the form of water resources, park land, construction materials, right-of way and the movement of the processing plant. The Department has helped put together a petition that addresses all the issues that have been brought forward at this time.

Greg Sovas, Spectra Environmental, Latham, NY has seen and debated many of the issues. There are four issues specific to this sand and gravel application:

1. Ground water quality: There has never been any demonstrable impact of mining in an aquifer, with the exception of the introduction of petroleum products. Therefore immediate notification of any spills is included in the plan.
2. Noise & visual: Work on the temporary berm, moving the plant across Hazel Dell, and 50 feet buffer versus 25 feet.
3. Safety: Requirement for a 6 foot fence 50 feet from the property as well as gentler reclamation from 50 feet to the 150 feet mark where the water will be, and a 1 on 10 slope for the water entry. Sand and gravel has a natural angle of repose of 35 degrees, it would be a 1 to 1.5 slope.
4. Finding mitigation for the environmental impacts for the Kingswood residences: The reclamation plan clearly defines what Martin Marietta will do. They are working on a comprehensive plan. Martin Marietta was told to do a hydra-geologic study and a blasting study. The proposed mining ordinance would not require any more of Martin Marietta than is being required for this sand and gravel operation.

If Martin Marietta does not have an operation here, they will have to import the material from other sources and that will increase the truck traffic. The lake from reclamation will enhance the open space and wildlife values. The proposal is well planned and sound, has minimal environmental impact, has substantial benefit to Kingswood and the Carmel community.

John Duffy, Utility Director, City of Carmel, stated plant #4 and well #11 are considered relatively small wells. The majority of the water comes from north of 116th Street and east of Hazel Dell Parkway. There is water down there and the City is interested in it. Three lakes are closer in proximity to 2 wells than what this new lake would be to the well. Contamination is a real issue and is dealt with all the time and will continue to be dealt with.

BZA Board questions followed.

Mrs. Rice raised issues: what affect on private wells in the area; would Martin Marietta activity speed up the eventual shutting down of well #11; why City Attorney refused to give a copy of the wellhead document; storage of oils at the site; will this land be offered as community open space; felt survey important; shutting one stub street and opening the other; lack of willingness to commit to no blasting in the future? Safety and value of property are not issues to her.

Mr. Hollibaugh: Martin Marietta is leasing the land from the Mueller Family/Conservatorship. It could be dealt with in a variety of ways: dedicated to the City, potential of residential development, access to the lake through the Park system, or Carmel Utility own and maintain the lake as a water resource as well as a recreation facility for the community.

Mr. Furlong, 10927 Valley Forge Circle, Carmel, Vice President of Martin Marietta. Martin Marietta will make a commitment to turn the lake over to the City or Water Department. Mueller Conservatorship may also be willing to turn it over to the City. Blasting is not a concern of sand and gravel mining. Martin Marietta is not pre-committing to no blasting because science may improve possibilities in the future. A public hearing would be required to have blasting. Storage of hazardous material is under many environmental laws for control and reporting.

Mr. Weinkauff made statements regarding the welfare of the entire community, not just Kingswood. There are many trucks tearing through the whole community. Major concerns are with access to the lake and safety.

Mr. Sovas had proposed some of the same questions and suggested better public and community relations from Martin Marietta. There is nothing to preclude public access to the east and the south of the lake.

Douglas Haney, Carmel City Attorney, regarding refusal of information. As Mr. Ezell was informed in a letter dated May 15, the document that was requested was a summary report that was prepared by the City's outside consultants, in an effort to assist the City in delineating its wellhead protection areas and in planning wellhead development. It constitutes the expression of expert opinion for the City to use in making its own policy formulation. It is an advisory report and the report is not subject to mandatory disclosure, it is exempt from disclosure. He did provide a copy of the wellhead protection area map, which synthesizes the report, but it has not been picked up.

Mr. Dierckman questioned Mr. Yedlick on how long he had been involved in the Kingswood Homeowners' Association; in what capacity had he served and how is the Board elected?

Mr. Yedlick responded he had been in Kingswood Homeowners' Association 8 or 9 years and had been President of the board all except 3 years. The Board is elected at annual meetings by the community and serves two-year terms. He was elected March 2001, and this issue was raised in 1999.

Mr. Weinkauff asked Mr. Yedlick about item #8 in the settlement agreement. For each year Martin Marietta is extracting from Mueller property, shall pay Kingswood \$5000 per year for maintenance of common area in Kingswood. What about other neighborhoods?

Mr. Yedlick responded it is quite traditional for mining operations to provide some kind of support for a neighboring area. This is a continuation of an offer made in 1999. Martin Marietta offered it and he was not going to let it go.

Mr. Dierckman suggested the BZA ask their counsel regarding the offer since they are participants and it was negotiated on BZA behalf also.

Mr. Molitor stated the way the settlement agreement evolved, the BZA would be kept apprised of what was being discussed, but would not be a party to the final settlement agreement because the only thing the BZA needed to do was agree to hear mining applications and the affected properties.

Mr. Mohr expressed concern for the best interests of the residents of Carmel, not just Kingswood. He was not comfortable with this Board being put in this position to make this decision. If the Council or City wants to work on an overlay zone, they can do extensive work and time needed and do what is right for all the citizens.

Mrs. Rice would like specific clarification in terms of the open space, the property surrounding, and the Parks Department.

Mr. Warshauer replied Martin Marietta is willing to work with Mueller Conservatorship and make an agreement with the Parks Department.

The Board discussed the private and public access to this proposed lake.

Mr. Molitor apprised the Board members getting to a final resolution can be difficult and the Board has the ability to permit or require commitments related to the project.

Mr. Sovas commented on having a mining ordinance in place first. Nothing more would be requested for sand and gravel operation that was not requested to date of Martin Marietta. A major opportunity to move the plant may be missed, if this application is not acted upon.

Discussion continued on private and public access to this proposed lake.

Mrs. Rice asked John Molitor if the Board could act on part of the variances and settle the access issue later.

Mr. Molitor stated the Board can demand it as a commitment of a Special Use now, but cannot leave part open. Perhaps he and the staff could draft a couple of ideas for the next meeting.

Mrs. Rice moved to continue the discussion and draft options on how to deal with the issue. The motion was seconded by Mr. Dierckman and **DENIED 2-3** with Mr. Mohr, Mrs. Plavchak, and Mr. Weinkauff casting the opposition votes.

Mr. Weinkauff stated this is Special Use and the Board is to tidy up access. Martin Marietta has to get permission from the Mueller Conservatorship.

Mr. Molitor stated this Board has the authority to require the property owner or conservatorship to make that commitment, even if it has to go through Court approval at a future date. If this Board mandates that, either the Court approves the commitment and the conservatorship or the Special Use approval would be null and void. If Martin Marietta cannot stand here and make that commitment, the Board can demand it of them.

Mr. Weinkauff asked if the Board could require that each property owner purchase the first 100 feet and 50 feet would be dedicated to the City.

Mr. Molitor stated the Board could not require owners of property who don't own property that is part of the petition to do something. But the Mueller Conservatorship and Martin Marietta have interest in the property as part of the petition, so the Board can require things of them.

Mr. Warshauer stated Martin Marietta has made commitments to neighboring property owners of a 150-foot strip and is not willing to break this commitment to give public access, unless they are able to come to some other accommodation for them.

Mrs. Rice asked if Martin Marietta would be willing to volunteer continuance to be able to discuss this particular area with those involved.

Mr. Furlough has spent 3 years dealing with the owners and they do not want a public access path along their properties or the stub streets.

Mr. Weinkauff stated there is a narrow area from the houses to the path all the way around the lake in Bayhill subdivision.

Mr. Warshauer stated that Bayhill was an American Aggregates project and Brenwick did the developing. The path has been a sore issue over access to that lake.

Mr. Weinkauff asked Mr. Joliet about the dates of the settlement agreement.

Mr. Joliet stated page 7 of the settlement agreement, Section C3 talks about what Kingswood agreed to do and that was not to oppose this petition. Mr. Joliet questioned what input has been given to all the other homeowners relative to the people on the perimeter in this issue of access.

Mr. Dierckman questioned Mr. Yedlick about the settlement.

Mr. Yedlick read from the agreement that Kingswood shall not oppose enactment of an overlay ordinance permitting sand and gravel extraction on the Mueller property. This is not a commitment to oppose or support these applications tonight, but a commitment not to oppose a mining ordinance when it comes to pass.

Mr. Weinkauff moved to approve **Martin Marietta Materials UV-23-02**. The motion was seconded by Mrs. Plavchak and **DENIED 2-3**, with Mr. Mohr, Mrs. Rice, and Mr. Weinkauff casting the opposition votes.

Mrs. Plavchak moved to approve **Martin Marietta Materials SU-24-02**. The motion was seconded by Mr. Dierckman and **DENIED 2-3**, with Mr. Mohr, Mrs. Rice, and Mr. Weinkauff casting the opposition votes.

Mrs. Plavchak moved to approve **Martin Marietta Materials SU-25-02**. The motion was seconded by Mrs. Rice and **DENIED 2-3**, with Mr. Mohr, Mrs. Rice, and Mr. Weinkauff casting the opposition votes.

Mrs. Plavchak moved to approve **Martin Marietta Materials V-26-02**. The motion was seconded by Mrs. Rice and **DENIED 2-3**, with Mr. Mohr, Mrs. Rice, and Mr. Weinkauff casting the opposition votes.

Mrs. Plavchak moved to approve **Martin Marietta Materials V-27-02**. The motion was seconded by Mrs. Rice and **DENIED 2-3**, with Mr. Mohr, Mrs. Rice, and Mr. Weinkauff casting the opposition votes.

Mr. Warshauer asked to be provided the negative findings of fact supporting the decisions.

Mr. Molitor stated the findings would be provided.

Mrs. Plavchak moved to suspend the rules after 11:00 PM to hear item 31-32j. **Hamilton County Senior Services**. The motion was seconded by Mr. Dierckman and **APPROVED 5-0**.

31-32j. Hamilton County Senior Services (V-52-02; V-53-02)

Petitioner seeks approval of the following Developmental Standards Variances:

V-52-02 §27.3.2 forego parking lot curbing

V-53-02 §27.5 reduced number of parking spaces

The site is located at 1078 Third Avenue Southwest. The site is zoned I-1/Industrial.

Filed by Sandra Stewart of Hamilton County Senior Services, Inc.

Present for Petitioner: Jeff Bischoff, BSA Design, 9365 Counselors Row, Indianapolis, Sandy Stewart, Executive Director, Hamilton County Senior Services, Suzanne Marks, President, Board of Directors, Hamilton County Senior Services. Being heard tonight helps to meet a deadline on purchase of the property. This is a non-profit organization for senior citizens over 55 and provides social and health services. This project is a relocation of the facility. This involves renovating the facility for offices. No additional pavement will be required, design is to re-stripe parking lot with 41 spaces, the ordinance requires 67. The 41 spaces will be plenty. Additional parking can be used at Carmel Ice Skadium. They are remodeling the building and the site. Putting curbs in the parking lot will keep the drainage from working properly.

Remonstrance:

Ramona Hancock, 12838 Wembly Road, Carmel is in support of the programs at the center for seniors and the community and also its close proximity to City Center.

Opposition: None

Rebuttal: None

Department Recommendation: Favorable consideration for V-52-02 with condition of low shrub and landscape plan for review by Monday, June 17, 2002, for Administrative approval. V-53-02 favorable consideration with the condition the parking plan is revised to show parking spaces of adequate dimensions to meet the requirements of the zoning ordinance.

Petitioner is in agreement with the Department's recommendations.

Public Hearing closed.

Mrs. Plavchak moved to approve **Hamilton County Senior Services V-52-02**. The motion was seconded by Mrs. Rice and **APPROVED 5-0**.

Leo Dierckman moved to approve **Hamilton County Senior Services V-53-02**. The motion was seconded by Mrs. Plavchak and **APPROVED 5-0**.

1j. *This Item tabled to the June 6, 2002, agenda.*

WTF - Sprint Spectrum (A-97-01)

Appellant (an Interested Party) wishes to appeal the decision of the Director regarding the collocation of a WTF antenna on an existing private radio tower.

The site is located at 1388 Queen's Way. The site is zoned S-1/Residence – Very Low Density.

Filed by J. Taggart Birge of Bose McKinney & Evans for Richard Deer.

2j. *This Item was WITHDRAWN at the May 28, 2002, meeting of the Board.*

Smokey Ridge, Section 3, Lot 63 (V-17-02)

Petitioner seeks approval of a Developmental Standards Variance of *Section 25.9: Drainage* in order to allow a swimming pool to encroach three (3) feet into a platted Drainage Easement.

The site is located at 13719 Smokey Ridge Overlook. The site is zoned R-1/Residence.

Filed by Marjorie A. Mikels of Pools of Fun for Thomas A. & Melinda Endicott.

3-4j. *Tabled to the July 22, 2002, agenda at Petitioner's request.*

Lakes at Hazel Dell, Section 1, Common Area 4a (V-18-02; V-19-02)

Petitioner seeks approval of the following Developmental Standards Variances:

V-18-02 §25.7.02-1(b): Number & Type 2 Subdivision Signs

V-19-02 §25.7.02-1(b): Number & Type unmatched Subdivision Signs

The site is located on the southwest corner of West Dellfield Boulevard and Hazel Dell Parkway. The site is zoned S-1/Residence - Low Density.

Filed by Joseph M. Scimia of Baker & Daniels for Drees Homes.

5-6j. *Tabled to the July 22, 2002, agenda at Petitioner's request.*

Lakes at Hazel Dell, Section 1, Common Area 6 (V-20-02; V-21-02)

Petitioner seeks approval of the following Developmental Standards Variances:

V-20-02 §25.7.02-1(b): Number & Type 2 Subdivision Signs

V-21-02 §25.7.02-1(b): Number & Type unmatched Subdivision Signs

The site is located on the northeast corner of East Dellfield Boulevard and Hazel Dell Parkway. The site is zoned S-1/Residence - Low Density.

Filed by Joseph M. Scimia of Baker & Daniels for Drees Homes.

7j. *This Item was tabled to the June 6, 2002, agenda.*

St. Peter's United Church of Christ (V-28-02)

Petitioner seeks approval of a Developmental Standards Variance of *Section 27.3.2* in order to forego the installation of perimeter parking lot curbing.

The site is located at 3106 East Carmel Drive. The site is zoned R-1/Residence within the State Highway 431/Keystone Avenue Overlay Zone.

Filed by David R. Barnes of Weihe Engineering for St. Peter's United Church of Christ.

8j. *This Item was tabled to the June 6, 2002, agenda.*

Carmel/Clay Schools - Orchard Park, Lot 78 and Block B - Orchard Park Elementary (V-29-02)

Petitioner seeks approval of a Developmental Standards Variance of *Section 25.7.02-5: Institutional Uses; (b): Number & Type* in order to establish two (2) Institutional Signs.

The site is located at 10404 Orchard Park South Drive. The site is zoned R-1/Residence.

Filed by Chris Hinkle of Paul I. Cripe, Inc. for the Carmel/Clay School Corporation.

9-10j. *This Item was tabled to the June 6, 2002, agenda.*

Carmel/Clay Schools - Towne Meadow Elementary (V-30-02; V-31-02)

Petitioner seeks approval of the following Developmental Standards Variances:

V-30-02 §25.7.01-2 22.22-square-foot traffic directional sign #1

V-31-02 §25.7.01-2 22.22-square-foot traffic directional sign #2

The site is located at 10850 Towne Road. The site is zoned S-1/Residence - Very Low Density.

Filed by Chris Hinkle of Paul I. Cripe, Inc. for the Carmel/Clay School Corporation.

11-15j. *This Item was tabled to the June 6, 2002, agenda.*

Carmel/Clay Schools - Cherry Tree Elementary (V-32-02; V-33-02; V-34-02; V-35-02; V-36-02)

Petitioner seeks approval of the following Developmental Standards Variances:

V-32-02 §25.7.01-2 13.24-square-foot traffic directional sign #1

V-33-02 §25.7.01-2 4.28-square-foot traffic directional sign #2

V-34-02 §25.7.01-2 6.82-square-foot traffic directional sign #3

V-35-02 §25.7.01-2 6.82-square-foot traffic directional sign #4

V-36-02 §25.7.01-2 51.75-square-foot institutional sign #5

The site is located at 13989 Hazel Dell Parkway. The site is zoned S-1/Residence - Low Density.

Filed by Chris Hinkle of Paul I. Cripe, Inc. for the Carmel/Clay School Corporation.

16j. *This Item was tabled to the June 6, 2002, agenda.*

Appel Heating & Air Conditioning (V-37-02)

Petitioner seeks approval of a Developmental Standards Variance of *Section 26.4.5(c)* in order to reduce the side perimeter bufferyards on the north and south property lines to zero (0) feet.

The site is located at 530 South Range Line Road. The site is zoned I-1/Industrial. Filed by Adam L. DeHart of Keeler-Webb Associates for Appel Heating & Air Conditioning.

17-28j. *This Item was tabled to the June 6, 2002, agenda.*

Carmel/Clay Schools - New Middle School (SU-38-02; V-39-02; V-40-02; V-41-02; V-42-02; V-43-02; V-44-02; V-45-02; V-46-02; V-47-02; V-48-02; V-49-02)

Petitioner seeks Special Use approval in order to establish a middle school on 159.823± acres.

Petitioner also seeks approval of the following Developmental Standards Variances:

V-39-02	§5.4.1: Maximum Height	45' 4" principal building height
V-40-02	§25.7.01-2	15.17-square-foot traffic directional sign A
V-41-02	§25.7.01-2	3' 3" traffic directional sign A
V-42-02	§25.7.01-2	13.42-square-foot traffic directional sign B
V-43-02	§25.7.01-2	3' 3" traffic directional sign B
V-44-02	§25.7.01-2	12.55-square-foot traffic directional sign C
V-45-02	§25.7.01-2	3' 3" traffic directional sign C
V-46-02	§25.7.02-5(b)(i)	three (3) institutional signs
V-47-02	§25.7.02-5(c)(i)	93.0-square-foot east wall institutional sign
V-48-02	§25.7.02-5(c)(ii)	24-square-foot changeable copy
V-49-02	§25.7.02-5(d)	6' 2" institutional ground sign

The site is located on the southeast corner of West 126th Street and Shelborne Road. The site is zoned S-1/Residence/Estate.

Filed by Jeff Bolinger of Fanning/Howey Associates for the Carmel/Clay School Corporation.

29-30j. *This Item was tabled to the June 6, 2002, agenda.*

Newark Addition, Lots 1 - 4(part) - Mohawk Landing (V-50-02; V-51-02)

Petitioner seeks approval of the following Developmental Standards Variances:

V-50-02	§25.7.02-11(d)(i)	10' center identification height
V-51-02	§25.7.02-11(g)(i)	center identification copy

The site is located on the southeast corner of City Center Drive and South Range Line Road. The site is zoned B-7/Business.

Filed by Paul G. Reis of Drewry Simmons Pitts & Vornehm for the 5254 Tivoli Partnership and Kosene Mohawk, LLC.

33-45j. *Tabled pending ADLS approval.*

Carmax Auto Superstores (V-54-02; V-55-02; V-56-02; V-57-02; V-58-02; V-59-02; V-60-02; V-61-02; V-62-02; V-63-02; V-64-02; V-65-02; V-66-02)

Petitioner seeks approval of the following Developmental Standards Variances:

V-54-02	§14.6: Landscaping Requirements	15' north and east bufferyards
V-55-02	§25.7.01-2	8' traffic directional sign E1
V-56-02	§25.7.01-2	4-square-foot traffic directional sign E1
V-57-02	§25.7.01-2	8' traffic directional sign E2

V-58-02	§25.7.01-2	4-square-foot traffic directional sign E2
V-59-02	§25.7.02-8(b)(i)	five (5) identification signs (A, B, B1, C, D)
V-60-02	§25.7.02-8(b)(ii)	three (3) id signs oriented east (B, C, D)
V-61-02	§25.7.02-8(c)	193-square-foot wall identification sign A
V-62-02	§25.7.02-8(c)	193-square-foot wall identification sign C
V-63-02	§25.7.02-8(c)	78.33-square-foot ground identification sign B
V-64-02	§25.7.02-8(c)	78.33-square-foot ground identification sign B1
V-65-02	§25.7.02-8(d)	8' ground identification sign B
V-66-02	§25.7.02-8(d)	12' 3½" ground identification sign B1

The site is located on the northwest corner of East 96th Street and Gray Road. The site is zoned B-3/Business.

Filed by E. Davis Coots of Coots Henke & Wheeler for Carmax Auto Superstores, Inc.

46-66j. *Tabled pending ADLS approval.*

St. Vincent's Carmel Hospital (V-67-02; V-68-02; V-69-02; V-70-02; V-71-02; V-72-02; V-73-02; V-74-02; V-75-02; V-76-02; V-77-02; V-78-02; V-79-02; V-80-02; V-81-02; V-82-02; V-83-02; V-84-02; V-85-02; V-86-02; V-87-02)

Petitioner seeks approval of the following Developmental Standards Variances:

V-67-02	§25.7.01-2	39-square-foot "EMERGENCY" TDS (20-1)
V-68-02	§25.7.01-2	11.07-square-foot "Ambulance Exit Only" TDS (20-4)
V-69-02	§25.7.01-2	11.07-square-foot "Ambulance Entrance" TDS (20-5)
V-70-02	§25.7.01-2	14.5-square-foot "Main Entrance" TDS (25-1)
V-71-02	§25.7.01-2	10.94-square-foot "Emergency" TDS (25-2)
V-72-02	§25.7.01-2	forty-one (41) 4-square-foot section TDS (30-#)
V-73-02	§25.7.01-2	ten (10) 17.25-square-foot director TDS (32-a)
V-74-02	§25.7.01-2	ten (10) 5' 2" director TDS (32-a)
V-75-02	§25.7.01-2	ten (10) 14.06-square-foot director TDS (32-b)
V-76-02	§25.7.01-2	ten (10) 4'6" director TDS (32-b)
V-77-02	§25.7.01-2	five (5) 4.75-square-foot bldg entrance id # TDS (22-#)
V-78-02	§25.7.02-5(b)(i)	eight (8) institutional signs
V-79-02	§25.7.02-5(c)(i)	70.06-square-foot institutional sign (10-1)
V-80-02	§25.7.02-5(c)(i)	70.06-square-foot institutional sign (11-1)
V-81-02	§25.7.02-5(c)(i)	77.7-square-foot institutional sign (12-1)
V-82-02	§25.7.02-5(c)(i)	77.7-square-foot institutional sign (12-2)
V-83-02	§25.7.02-5(c)(i)	144-square-foot institutional sign (20-2)
V-84-02	§25.7.02-5(d)	5' 4" institutional sign (10-1)
V-85-02	§25.7.02-5(d)	5' 4" institutional sign (11-1)
V-86-02	§25.7.02-5(d)	8' 9" institutional sign (12-1)
V-87-02	§25.7.02-5(d)	8' 9" institutional sign (12-2)

The site is located at 13500 North Meridian Street. The site is zoned B-6/Business within the US 31/Meridian Street Overlay Zone.

Filed by Becky R. Feigh of BSA Design for St Vincent Hospital & Health Care Center, Inc.

67-68j. *This Item was tabled to the June 6, 2002, agenda.*

Little Farms Addition, Lot 46 (V-89-02; V-90-02)

Petitioner seeks approval of the following Developmental Standards Variances:

V-89-02 §25.9: *Drainage* accessory bldg encroaching in drainage easement

V-90-02 §25.1.1(B)(3)(b)(i)(b) accessory building setback

The site is located at 10401 Ethel Drive. The site is zoned R-1/Residence and R-3/Residence within the Home Place District Overlay Zone.

Filed by Timothy M. & Melanie Rae Brower.

L. New Business.

1L. *This Item was tabled to the June 6, 2002, agenda.*

Board to consider amendments to the Board of Zoning Appeals Rules of Procedure.

M. Adjourn.

Mr. Weinkauff moved the meeting be adjourned. The motion was seconded by Mr. Dierckman and **APPROVED 5-0.**

Meeting was adjourned at 12:45 AM.

Michael Mohr, President

Connie Tingley, Secretary